

**SUPPORTING STATEMENT FOR
EPA INFORMATION COLLECTION REQUEST NUMBER 2120.01
“HAZARDOUS WASTE LISTING FOR ORGANIC DYES AND/OR
PIGMENTS PRODUCTION WASTES”**

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1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title and Number of the Information Collection

This Information Collection Request (ICR) is entitled “Hazardous Waste Listing for Organic Dyes and/or Pigments Production Wastes,” EPA ICR Number 2120.01.

1(b) Short Characterization

The U.S. Environmental Protection Agency (EPA) is proposing to list nonwastewaters from the production of certain organic dyes, pigments, and food, drug, and cosmetic (FD&C) colorants¹ as hazardous wastes under the Resource Conservation and Recovery Act (RCRA), as amended, which directs EPA to determine whether these wastes present a hazard to human health and the environment. If these wastes are listed as hazardous waste, they will be subject to stringent management and treatment standards under Subtitle C of RCRA.

EPA is proposing a mass loading-based listing approach for organic dyes and/or pigments production nonwastewaters (*i.e.*, K181 wastes). Under this approach, these wastes are hazardous if they contain any of eight specific constituents of concern (CoCs) at annual mass loading levels that meet or exceed regulatory levels.² If generators determine that their wastes are below regulatory levels for all CoCs, then their wastes are nonhazardous. If their wastes exceed the regulatory levels for any of the CoCs, the wastes must be managed as listed hazardous wastes unless they (1) do not contain annual mass loadings of any constituents identified in proposed 40 *CFR* 261.32(c)(2) at or above the corresponding section 261.32(c)(2) levels³, and (2) are disposed of in a Subtitle D landfill cell subject to the design criteria in 40 *CFR* 258.40 or in a Subtitle C landfill cell subject to either 40 *CFR* 264.301 or 265.301.

This proposal also would add the toxic constituents o-anisidine, p-cresidine, 2,4-dimethylaniline, 1,2-phenylenediamine, and 1,3-phenylenediamine associated with these identified wastes to the list of constituents that serves as the basis for classifying wastes as hazardous (40 *CFR* Part 261, Appendix VIII). In addition, the proposal would add o-anisidine, p-cresidine, 2,4-dimethylaniline, 1,3-phenylenediamine, and toluene-2,4-diamine to the treatment

¹ This ICR uses the terminology “dyes and/or pigments” to refer to all of the organic dyes and/or pigments production facilities or processes potentially impacted by the proposed rule. These industries are identified under the Standard Identification Classification (SIC) as 2865, and under the North American Industrial Classification System (NAICS) as 325132.

² These eight CoCs are: aniline, o-anisidine, 4-chloroaniline, p-cresidine, 2,4-dimethylaniline, 1,2-phenylenediamine, 1,3-phenylenediamine, and toluene-2,4-diamine.

³ Under the proposed rule, only one CoC is listed under 40 *CFR* 261.32(c)(2): toluene-2,4-diamine.

standards applicable to F039 landfill leachate and the Universal Treatment Standards listed at 40 *CFR* 268.48.

In Sections 1 through 5 of this ICR, EPA presents a comprehensive description of the new information collection requirements resulting from the listing of organic dyes and/or pigments production nonwastewaters. In Section 6, EPA estimates the total annual hour and cost burden to respondents (*i.e.*, affected dyes and/or pigments production facilities) associated with these new paperwork requirements. In addition, EPA estimates in Section 6(d) the total annual hour and costs to generators and subsequent handlers of these nonwastewaters in complying with existing RCRA information collection requirements that apply to newly listed hazardous wastes.

In the following paragraphs, EPA briefly describes the new information collection requirements in the proposed rule.

(1) Procedures for Demonstrating that Dyes and/or Pigments Nonwastewaters Are Not K181

Under 40 *CFR* 261.32, EPA is proposing a mass loading-based listing for organic dyes and/or pigments nonwastewaters, such that generators of these wastes have the option of demonstrating that their specific wastes are not K181 because they do not meet or exceed the annual mass loadings identified in proposed section 261.32(c)(1). To make this demonstration, generators must follow the procedures under proposed section 261.32(d).

Under 40 *CFR* 261.32(d), EPA is proposing that all generators could use knowledge of the waste to make an initial determination as to whether any of the regulated constituents are present in the waste. If a generator determines that none of these constituents are present in his wastes at the point of generation, then the generator would have no further obligation for determining whether or not his wastes are K181 listed hazardous wastes (assuming the regulated constituents are, in fact, not present in the wastes). If the generator determines that any of the constituents are present in his waste, then EPA is proposing that the generator must either demonstrate that the constituent loadings in his waste are below the mass loading levels in the listing or assume that his wastes are hazardous at the point of generation. Under the proposed approach, the generator would need to make an annual determination of whether his mass loading levels are below the listing mass limits through use of knowledge or waste sampling and analysis. If the generator's wastes remained nonhazardous for three consecutive annual nonhazardous determinations and the generator has had no significant changes to his product and/or manufacturing or treatment processes, the annual determination requirement would be suspended. If the generator made significant changes to product and/or manufacturing or treatment processes, the annual requirements would be reinstated. EPA is proposing that generators keep limited records on site.

(2) Recordkeeping Demonstrations for Use of Appropriate Landfills

Under the proposal, generators that demonstrate that their wastes contain the K181 constituents in proposed 40 *CFR* 261.32(c)(2) below their corresponding listing levels may claim that their wastes are nonhazardous if they dispose of the wastes in a Subtitle D landfill cell subject to the design criteria in 40 *CFR* 258.40 or in a Subtitle C landfill cell subject to either 40 *CFR* 264.301 or 265.301. These generators must maintain on site for three years documentation, under proposed 40 *CFR* 261.32(d)(4), demonstrating that each shipment of waste was received by a landfill cell subject to the landfill design standards set out in the listing description.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need and Authority for the Collection

EPA is proposing to list organic dyes and/or pigments nonwastewaters (*i.e.*, K181 waste) under the authority of Sections 2002(a), 3001(b), 3001(e)(2), 3004(d)-(m), and 3007(a) of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA). Section 3001(e)(2) directs EPA to make a determination of whether or not to list, under Section 3001(b)(1), wastes from the production of dyes and pigments, among other wastes. Under this authority, EPA has examined dyes and/or pigments production wastes (*e.g.*, using risk assessment tools), identified CoCs and their potential risks, and established a “loadings-based” approach that would qualify the waste as hazardous under RCRA. Under Sections 2002(a) and 3007(a) of RCRA, EPA is establishing information collection requirements that are needed to ensure that the listed wastes are properly managed and disposed of.

In addition, the proposed rule satisfies EPA’s duty under a Consent Decree between EPA and the Environmental Defense (formerly Environmental Defense Fund (EDF)). Under this Consent Decree, the Agency is required to “promulgate final listing determinations for azo/benzidine, anthraquinone, and triarylmethane dye and pigment production wastes on or before February 16, 2005... These listing determinations shall be proposed for public comment on or before November 10, 2003.”

2(b) Practical Utility and Users of the Data

EPA is proposing that the mass loadings-based listing be self-implementing, which means that no prior governmental review or approval is needed for the waste to be claimed as nonhazardous. Because of this, EPA believes that the recordkeeping requirements in the proposal are needed to ensure that generators characterize their wastes accurately and reliably, and keep records of the claims on site.

EPA believes the proposed mass loadings-based approach allows generators to evaluate the variable wastes they generate individually for hazard, so only wastes that are hazardous are listed. As a result, there should be less burden on dyes and/or pigments manufacturers than

would be imposed by a traditional listing that would bring entire wastes into the hazardous waste system, regardless of the characteristics of wastes generated by individual generators. EPA believes the mass loadings-based approach is more protective of the environment than a concentration-based listing because concentrations can be modified (*e.g.*, dilution) to the point that a waste might pass the listing criteria, yet still contain sufficient mass to pose a risk to human health or the environment. Finally, a mass loadings-based listing approach may provide an incentive for hazardous waste generating facilities to modify their manufacturing processes or treat their wastes.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Nonduplication

None of the new information required by the proposed rule is duplicative with any information required by the existing RCRA regulations.

3(b) Public Notice

In compliance with the Paperwork Reduction Act of 1995, EPA has issued a public notice in the *Federal Register* **[ADD FR NOTICE DATE AND CITATION]**. The public comment period extends through **[ENTER DATE]**. To assist the public in commenting on the proposal, EPA raised a number of issues in the preamble to the proposed rule and asked for the public to comment on them. At the end of the comment period, EPA will review public comments received in response to the notice and will address comments received, as appropriate.

3(c) Consultations

EPA has made a number of efforts to consult with its stakeholders in developing the proposed rule. In 1992, EPA distributed a detailed RCRA Section 3007 survey to dyes and pigments manufacturing facilities in support of a 1994 proposed listings rule. The questionnaire collected information on the management of the wastes generated by each facility, including waste quantity and how the wastes were managed and disposed of. In addition, EPA contacted companies generating the organic dyes and pigments wastes to update the information in the 1992 survey. The updated information EPA collected includes the quantities of waste generated (for the year 1997), and the waste management practices used by the facilities for each of the wastes.

In 2002, EPA contacted nine State agencies to learn about the existing status of on-site land disposal units located at potential organic dyes and/or pigments production facilities in those

States.⁴ None of the State contacts identified any facilities with active on-site land disposal units of concern, with the exception of a single facility slated for closure that was described as operating surface impoundments equipped with double high density polyethylene (HDPE) liners.

EPA also met with the three primary trade associations—Color Pigments Manufacturers Association (CPMA), Ecological and Toxicological Association of Dyes and Organic Pigments Manufacturers (ETAD), and International Association of Color Manufacturers (IACM)—in December of 2002.⁵ The trade associations reviewed the Agency’s compilation of available information regarding on-site waste management practices at known organic dyes and/or pigments production facilities. Both CPMA and ETAD collected additional information, and provided input on the status of those identified on-site waste management practices.

EPA has requested public comments on the proposed rule. Public comments will be incorporated into the ICR supporting the final rule, as appropriate.

3(d) Effects of Less Frequent Collection

Under the proposed rule, generators of organic dyes and/or pigments nonwastewaters will have to conduct nonhazardous determinations annually to verify that the wastes remain nonhazardous. For facilities that generate 1,000 metric tons or less per year, this determination will be based on knowledge of their wastes. For facilities that generate more than 1,000 metric tons per year, this determination will be based on waste sampling and analysis. These annual testing requirements will be suspended if the wastes remain nonhazardous for three consecutive years of testing. However, if the manufacturing or waste treatment processes generating the wastes are significantly altered, the annual testing requirements will be reinstated.

EPA has carefully considered the information collection burden imposed upon the regulated organic dyes and/or pigments production community by the proposed rule. EPA is confident that those activities required of respondents are necessary, and to the extent possible, the Agency has attempted to minimize the burden imposed. EPA believes strongly that, if the minimum information collection requirements of the proposed rule are not met, neither the generators nor EPA can ensure that hazardous wastes are being properly managed, and do not pose a serious threat to human health and the environment.

3(e) General Guidelines

This ICR adheres to the guidelines stated in the Paperwork Reduction Act of 1995, OMB's implementing regulations, EPA's ICR Handbook, and other applicable OMB guidance.

⁴ See “State Phone Calls on On-site Waste Management Determination” in the public docket for details.

⁵ See meeting summaries available in the public docket for the proposed rule.

3(f) Confidentiality

Section 3007(b) of RCRA and 40 *CFR* Part 2, Subpart B, which defines EPA's general policy on public disclosure of information, contain provisions for confidentiality. However, the Agency does not anticipate that businesses will assert a claim of confidentiality covering all or part of the proposed rule. If such a claim were asserted, EPA must and will treat the information in accordance with the regulations cited above. EPA also will assure that this information collection complies with the Privacy Act of 1974 and OMB Circular 108.

3(g) Sensitive Questions

No questions of a sensitive nature are included in the information collection requirement associated with the proposed rule.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents and SIC/NAICS Codes

The following is a list of Standard Industrial Classification (SIC) codes and corresponding North American Industry Classification System (NAICS) codes associated with industries most likely affected by the information collection requirements covered in this ICR.

Industry Sector	SIC Code	NAICS Code
Flavoring Extracts and Flavoring Syrups Manufacturing	2087	311930
Food Preparations Manufacturing	2099	311942
Industrial Gases Manufacturing	2813	32512
Industrial Inorganic Chemicals Manufacturing	2819	32518, 331311
Biological Products Manufacturing (Except Diagnostic Substances)	2836	325414
Synthetic Organic Dyes and Pigments Manufacturing	2865	32511, 325132, 325192
Industrial Organic Chemicals Manufacturing	2869	325199
Pesticides and Agricultural Chemicals Manufacturing	2879	32532
Chemicals and Allied Products (Wholesale trade)	5169	42269

4(b) Information Requested

Under 40 *CFR* 261.32, EPA is proposing a mass loadings-based listing for organic dyes and/or pigments nonwastewaters, such that generators of these wastes have the option of demonstrating that their specific waste is nonhazardous. To have their waste classified as nonhazardous, generators must follow the procedures under proposed section 261.32(d). These procedures are described in the following paragraphs.

(1) Procedures for Demonstrating that Dyes and/or Pigments Nonwastewaters Are Not K181

(a) Determination Based on No K181 Constituents

Under proposed 40 *CFR* 261.32(d)(1), generators that have knowledge that their waste contains none of the K181 constituents identified in proposed section 261.32(c)(1) can use their knowledge to determine that their waste is not K181. Generators must keep documentation supporting this annual determination on site for three years.

(i) Data Item:

- Documentation supporting the determination that dyes and/or pigments nonwastewater is not K181.

(ii) Respondent Activities:

- Determine that the dyes and/or pigments nonwastewater is not K181;
- Document the basis for determining that the dyes and/or pigments nonwastewater is not K181; and
- Keep each annual supporting documentation on site.

(b) Determination For Generated Quantities Less Than 1,000 MT/Yr for Wastes That Contain K181 Constituents

Under proposed 40 *CFR* 261.32(d)(2), generators can use knowledge of their waste to conclude that mass loadings for the K181 constituents are below the listing levels, if the total annual generation quantity of organic dyes and/or pigments production nonwastewaters is 1,000 metric tons or less. To make this determination, generators must document that the annual quantity of nonwastewaters expected to be generated is less than 1,000 metric tons, track the actual quantity of nonwastewaters generated over the course of the calendar year (*i.e.*, from January 1 through December 31 of each year), keep a running total of the K181 constituent mass

loadings over the course of the calendar year, and keep specified records on site for three years, as specified in proposed sections 261.32(d)(2)(i) through (iv).

(i) Data Items:

- Documentation demonstrating that the annual quantity of organic dyes and/or pigments production nonwastewaters expected to be generated is less than 1,000 metric tons;
- Quantity of organic dyes and/or pigments production nonwastewaters generated;
- Relevant process information used; and
- Calculations performed to determine annual total mass loadings for each K181 constituent in the nonwastewaters during the year.

(ii) Respondent Activities:

- Document the basis for determining that the annual quantity of nonwastewaters expected to be generated will be less than 1,000 metric tons;
- Track the actual quantity of nonwastewaters generated over the course of the calendar year;
- Keep a running total of the K181 constituent mass loadings over the course of the calendar year; and
- Keep supporting documentation on site.

(c) **Determination for Generated Quantities Greater Than 1,000 MT/Yr for Wastes That Contain K181 Constituents**

Under proposed 40 *CFR* 261.32(d)(3), generators with a total annual generation quantity of organic dyes and/or pigments production nonwastewaters greater than 1,000 metric tons must determine which K181 constituents reasonably are expected to be present in their wastes. These generators also must develop a waste sampling and analysis plan (or modify an existing plan) to collect and analyze representative waste samples for the K181 constituents reasonably expected to be present in the wastes, as specified in section 261.32(d)(3)(ii). In collecting and analyzing the waste samples, generators must follow the waste sampling and analysis plan (section 261.32(d)(3)(iii)).

Under proposed sections 261.32(d)(3)(iv) through (viii), generators must record the analytical results, record the waste quantity represented by the sampling and analysis results,

calculate constituent-specific mass loadings (*i.e.*, the product of concentrations and waste quantity), keep a running total of the K181 constituent mass loadings over the course of the calendar year, and determine whether the mass of any of the K181 constituents is below the K181 listing levels.

In addition, generators must keep specified documentation on site for three years, as specified in section 261.32(d)(3)(ix).

Pursuant to proposed section 261.32(d)(3)(x), nonhazardous waste determinations must be conducted annually to verify that the wastes remain nonhazardous. The annual testing requirements are suspended after three consecutive successful annual demonstrations that the wastes are nonhazardous. Generators then can use knowledge of the wastes to support subsequent annual determinations. If the annual testing requirements are suspended, the generator must keep records of the process knowledge information used to support a nonhazardous determination.

The annual testing requirements are reinstated if the manufacturing or waste treatment processes generating the wastes are significantly altered, resulting in an increase of the potential for the wastes to exceed the listing levels. If testing is reinstated, a description of the process change must be retained.

(i) Data Items:

- Documentation on which K181 constituents are reasonably expected to be present in the wastes;
- Waste sampling and analysis plan to collect and analyze representative waste samples for the K181 constituents reasonably expected to be present in the wastes. At a minimum, the plan must include:
 - A discussion of the number of samples needed to characterize the wastes fully;
 - The planned sample collection method to obtain representative waste samples;
 - A discussion of how the sampling plan accounts for potential temporal and spatial variability of the wastes; and
 - A detailed description of the test methods to be used, including sample preparation, clean-up (if necessary), and determinative methods;
- Waste sampling and analysis results (including QA/QC data);

- Quantity of organic dyes and/or pigments production nonwastewaters generated;
- Calculations performed to determine annual mass loadings for each K181 constituent in the nonwastewaters;
- If the annual testing requirements are suspended after three successful demonstrations that the waste are nonhazardous, records of the process knowledge information used to support a nonhazardous determination; and
- If the manufacturing or waste treatment processes generating the wastes are significantly altered as specified, a description of the process change.

(ii) Respondent Activities:

- Determine which K181 constituents reasonably are expected to be present in the wastes;
- Develop waste sampling and analysis plan;
- Collect and analyze samples in accordance with the waste sampling and analysis plan;
- Record analytical results;
- Record the waste quantity represented by the sampling and analysis results;
- Calculate constituent-specific mass loadings;
- Keep a running total of the K181 constituent mass loadings over the course of the calendar year;
- Determine whether the mass of any of the K181 constituents is below the K181 listing levels;
- Keep supporting documentation on site;
- If the annual testing requirements are suspended after three successful demonstrations that the waste are nonhazardous, the generator can:
 - Use knowledge of the waste to support subsequent annual determination; and

- Keep records of the process knowledge information used to support a nonhazardous determination.
- If the manufacturing or waste treatment processes generating the wastes are significantly altered as specified, reinstate annual testing requirements and retain a description of the process change.

(2) Recordkeeping Demonstrations for Use of Appropriate Landfills

Under proposed 40 *CFR* 261.32(d)(4), generators must maintain documentation demonstrating that each shipment of waste was received by a landfill cell subject to the landfill design standards set out in the listing description. This documentation must be maintained on site for a period of three years.

(i) Data Item:

- Documentation demonstrating that each shipment of waste was received by a landfill cell subject to the landfill design standards set out in the listing description (*e.g.*, a letter from the owner with references to applicable State permit or license that describe the liner design, a statement that the liner is at least equivalent to the section 258.40 design).

(ii) Respondent Activity:

- Maintain onsite for three years documentation demonstrating that each shipment of waste was received by a landfill cell subject to the landfill design standards set out in the listing description.

5. THE INFORMATION COLLECTED—AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

5(a) Agency Activities

There are no Agency activities associated with the new information collection requirements for generators of organic dyes and/or pigments production nonwastewaters.

5(b) Collection Methodology and Management

All of the information collected under the proposed listing would be maintained at the generator's facility. There are no Agency collection activities associated with the new requirements for generators of organic dyes and/or pigments production nonwastewaters.

5(c) Small Entity Flexibility

The proposal includes a mass loadings-based listing for organic dyes and/or pigments production nonwastewaters that allows generators to determine whether their waste is nonhazardous under the listing. Thus, although the proposal would add the K181 wastes to the hazardous waste listings, the rule would provide flexibility to both large and small generators to determine whether they can manage their waste as nonhazardous, as specified. If a small entity's waste does qualify as hazardous under the listings, the small entity may be eligible for complying with the small quantity generator standards, which impose fewer paperwork requirements than the standards for large quantity generators.

5(d) Collection Schedule

Under the proposed rule, generators of organic dyes and/or pigments production nonwastewaters will have to conduct nonhazardous determinations annually to verify that the wastes remain nonhazardous. For facilities that generate 1,000 metric tons or less per year, this determination will be based on knowledge of their wastes. For facilities that generate more than 1,000 metric tons per year, this determination will be based on waste sampling and analysis. These annual testing requirements will be suspended if the wastes remain nonhazardous for three consecutive years of testing. However, if the manufacturing or waste treatment process generating the wastes are significantly altered, the annual testing requirements will be reinstated. EPA believes such a schedule will ensure that generators take measures to determine whether their wastes qualify for the nonhazardous claim.

6. ESTIMATING THE HOUR AND COST BURDEN OF THE COLLECTION

6(a) Estimating Respondent Burden Hours

In Exhibit 1, EPA estimates the respondent hourly burden associated with the new paperwork requirements resulting from the listing of organic dyes and/or pigments production nonwastewaters as hazardous waste. Exhibit 1 includes burden hours (total and by labor type) per respondent, as well as the overall burden hours for all respondents.

6(b) Estimating Respondent Costs

EPA estimates the annual respondent costs associated with the new paperwork requirements in Exhibit 1. These costs are based on the cost of labor, capital, and operation and maintenance (O&M).

Labor Costs

For purposes of this analysis, EPA estimates an average hourly respondent labor cost (including fringe and overhead) of \$114.57 for legal staff, \$89.86 for managerial staff, \$58.82 for technical staff, and \$30.76 for clerical staff. These rates are based on industry consultations conducted by EPA several years ago and updated to 2003 levels using Employment Cost Indices developed by the U.S. Bureau of Labor Statistics.⁶

Using the total burden hours discussed in Section 6(a) and the hourly wage rates outlined in this section, Exhibit 1 illustrates the labor costs associated with the information collection requirements covered in this ICR.

Capital Costs

Capital costs usually include any produced physical good needed to provide the needed information, such as machinery, computers, and other equipment. EPA does not anticipate that respondents will incur capital costs in carrying out the information collection requirements covered in this ICR.

Operation & Maintenance Costs

O&M costs are those costs associated with a paperwork requirement incurred continually over the life of the ICR. They are defined by the Paperwork Reduction Act of 1995 as “the recurring dollar amount of costs associated with O&M or purchasing services.” For this ICR, O&M costs include initial waste characterization costs (\$5,255) and annual waste sampling and analysis costs (\$5,445).⁷ These O&M costs are shown in Exhibit 1.

6(c) Estimating Agency Hour and Cost Burden

As stated earlier, there are no Agency activities associated with the new information collection requirements for generators of organic dyes and/or pigments production nonwastewaters. Thus, there is no Agency burden or cost associated with this proposed rule.

⁶ The labor rates were obtained from the currently-approved Hazardous Waste Generator Standards ICR, EPA ICR Number 820.08.

⁷ These costs were obtained from the economic assessment document developed for the proposed rule: *Economic Assessment for the Proposed Loadings-Based Listing of Non-Wastewaters from the Production of Selected Organic Dyes, Pigments, and Food, Drug, and Cosmetic Colorants*. This document is available in the public docket for the proposed rule.

6(d) Estimating the Annual Respondent Universe and Total Hour and Cost Burden

In this section, EPA first describes the respondent universe affected by the new information collection requirements resulting from the listing of organic dyes and/or pigments production nonwastewaters as hazardous wastes. EPA then estimates the *annual aggregate burden* to respondents under the proposed rule and existing RCRA information collection requirements.

The universe estimates and assumptions used in the development of this ICR are based on the economic assessment document developed for the proposed rule. Specifically, EPA referred to the “High Most Likely Scenario” of the Agency Preferred Approach.

Respondent Universe

Table 1 presents the annual number of respondents expected to generate organic dyes and/or pigments production nonwastewaters during the three-year period covered by this ICR. It shows that EPA expects a total of 37 facilities to generate organic dyes and/or pigments production nonwastewaters each year. Of these facilities, EPA estimates that 21 will generate nonwastewaters that contain none of the K181 CoCs and that 16 will generate nonwastewaters that contain one or more K181 CoCs.

Table 1
Annual Number of Respondents Subject to the New Paperwork
Requirements under the Proposed Rule

Type of Organic Dyes and/or Pigments Nonwastewater	Number of Respondents		
	≤1,000 Metric Tons	>1,000 Metric Tons	Total
Waste with no K181 CoCs	19	2	21
Waste with K181 CoCs	7	9	16
Total	26	11	37

The following paragraphs discuss these universe estimates in relation to the proposed rule and existing RCRA information collection requirements.

Annual Respondent Hour and Cost Burden under the Proposed Rule

Based on the universe data presented in Table 1, EPA estimated respondent burden associated with all of the new paperwork requirements under the proposed rule in Exhibit 1. A discussion of the assumptions used in developing these burden estimates follows.

(1) Reading the Regulations

EPA estimates that 37 respondents will be subject to the new paperwork requirements under the proposed rule. EPA assumes that all these respondents will read the preamble to the rule and the proposed regulations each year.

(2) Procedures for Demonstrating that Dyes and/or Pigments Nonwastewaters Are Not K181

(a) Determination Based on No K181 Constituents

EPA estimates that 21 respondents will use knowledge of their wastes to determine that their organic dyes and/or pigments production nonwastewaters do not contain any of the K181 CoCs identified in proposed section 261.32(c)(1). These respondents will keep documentation on site for three years supporting their determination that the nonwastewaters are nonhazardous.

(b) Determination For Generated Quantities Less Than 1,000 MT/yr for Wastes That Contain K181 Constituents

EPA estimates that, each year, seven facilities will generate 1,000 metric tons or less of organic dyes and/or pigments production nonwastewaters containing K181 CoCs. Of these seven facilities, five are expected to follow the procedures under proposed section 261.32(d)(2) to determine whether or not their wastes exceed the mass loading levels in the listing. EPA assumes that the remaining two facilities will assume that their wastes are hazardous at the point of generation and thus, will manage and dispose of their wastes in compliance with RCRA Subtitle C regulations.

To support their determination, facilities will need to estimate how much waste they expect to generate each year, track the actual quantity of organic dyes and/or pigments production nonwastewaters generated over the course of the year, keep a running total of the K181 constituent mass loadings over the course of the year, and keep supporting documentation on site for three years, as specified.

(c) Determination For Generated Quantities Greater Than 1,000 MT/Yr for Wastes That Contain K181 Constituents

EPA estimates that, each year, nine facilities will generate more than 1,000 metric tons of organic dyes and/or pigments production nonwastewaters containing K181 CoCs. Of these nine facilities, eight are expected to follow the procedures under proposed section 261.32(d)(3) to determine whether or not their wastes exceed the mass loading levels in the listing. EPA assumes that the remaining facility will assume that the wastes are hazardous at the point of generation and thus, will manage and dispose of the wastes in compliance with RCRA Subtitle C regulations.

To support their determination, facilities will need to identify target K181 CoCs (based on knowledge of their wastes or testing), develop and follow a waste sampling and analysis plan, calculate mass loadings based on analytical results, determine whether the annual mass loadings are below the K181 listing levels, and keep supporting documentation on site for three years, as specified.

EPA conservatively assumes that the annual testing requirements will be suspended for none of the facilities during the three-year period covered by this ICR.

(3) Recordkeeping Demonstrations for Use of Appropriate Landfills

Table 2 presents EPA's assumptions regarding the waste management practices of the 16 facilities expected to generate organic dyes and/or pigments production nonwastewaters containing K181 CoCs. As shown in the table, EPA estimates that, of the 16 facilities, 13 will dispose of their nonwastewaters in a Subtitle D landfill.⁸ These facilities will maintain documentation demonstrating that the waste was disposed of in a landfill that meets or exceeds the design criteria in 40 *CFR* 258.40.

⁸ For purposes of this analysis, EPA assumes that all 13 facilities generating organic dyes and/or pigments production nonwastewaters containing K181 CoCs at levels that do not exceed the hazardous loadings in proposed section 261.32(c)(2) will dispose of their nonwastewaters in a Subtitle D landfill. This assumption is consistent with the economic assessment document developed for this proposed rule.

Table 2
Compliance Waste Management Practices for Organic Dyes and/or
Pigments Nonwastewaters Containing K181 Constituents of Concern

Type of Waste Management	Number of Respondents		
	≤ 1,000 Metric Tons	> 1,000 Metric Tons	Total
Subtitle D Landfill ^a	5	8	13
Subtitle C incineration, followed by Subtitle C landfill of ash ^b	2	1	3
Total	7	9	16

^a Assumes landfill meets 40 *CFR* Part 258 design standards.

^b Assumes that it would not be economically feasible to have a unit dedicated to the incineration of K181 waste. As a result, Subtitle C incineration facilities would incinerate K181 waste with other hazardous wastes and dispose of the incineration ashes in a Subtitle C landfill.

EXHIBIT 1
HAZARDOUS WASTE LISTING FOR ORGANIC DYES AND/OR PIGMENTS PRODUCTION WASTES¹
ESTIMATED ANNUAL RESPONDENT HOUR AND COST BURDEN

INFORMATION COLLECTION ACTIVITY	Hours and Costs per Respondent								Total Hours and Costs		
	Legal \$114.57/Hr	Manager \$25.25/Hr	Technical \$58.82/Hr	Clerical \$30.75/Hr	Respon. Hours/ Year	Labor Cost/ Year	Capital/ Start-up Cost	OSM Cost	Number of Respondents	Total Hours/ Year	Total Cost/ Year
READING THE REGULATIONS											
Read the regulations	1.50	2.50	2.50	0.00	6.50	\$543.56	\$0.00	\$0.00	37	241	\$20,112
PROCEDURES FOR DEMONSTRATING THAT DYES AND/OR PIGMENT NONWASTEWATERS ARE NOT K121											
Determination Based on No K121 Constituents											
Determine that the dyes and/or pigments nonwastewater is not K121	0.00	0.25	1.00	0.00	1.25	\$81.25	\$0.00	\$0.00	21	26	\$1,707
Document the basis for determining that the dyes and/or pigments nonwastewater is not K121 on an annual basis	0.00	0.00	0.50	0.00	0.50	\$29.41	\$0.00	\$0.00	21	11	\$618
Keep supporting documentation on site	0.00	0.00	0.00	0.10	0.10	\$3.08	\$0.00	\$0.00	21	2	\$65
Sub total	0.00	0.25	1.50	0.10	1.85	\$113.73	\$0.00	\$0.00	21	39	\$2,390
Determination For Low Volume Wastes that Contain K121 Constituents											
Document the basis for determining that the annual quantity of nonwastewaters expected to be generated is less than 1,000 metric tons	0.00	0.25	4.00	0.10	4.35	\$260.82	\$0.00	\$0.00	5	22	\$1,304
Track the actual quantity of nonwastewaters generated throughout the year	0.00	0.00	3.00	0.00	3.00	\$176.46	\$0.00	\$0.00	5	15	\$832
Keep a running total of the K121 constituent mass loadings over the course of the calendar year	0.00	0.00	3.00	0.00	3.00	\$176.46	\$0.00	\$0.00	5	15	\$832
Keep supporting documentation on site	0.00	0.00	0.00	0.10	0.10	\$3.08	\$0.00	\$0.00	5	1	\$15
Sub total	0.00	0.25	10.00	0.20	10.45	\$616.82	\$0.00	\$0.00	5	53	\$3,083
Determination for High Volume Wastes with K121 Constituents											
Determine which K121 constituents are reasonably expected to be present in the wastes	0.00	0.25	4.00	0.00	4.25	\$257.75	\$0.00	\$0.00	8	34	\$2,052
Determine which K121 constituents are reasonably expected to be present in the wastes based on testing	0.00	0.00	2.00	0.10	2.10	\$120.72	\$0.00	\$5,255.00	0	0	\$0
Develop waste sampling and analysis plan	0.00	0.25	4.00	0.50	4.75	\$273.13	\$0.00	\$0.00	8	38	\$2,185
Collect and analyze samples in accordance with the waste sampling and analysis plan	0.00	0.00	2.00	0.25	2.25	\$125.33	\$0.00	\$5,445.00	8	18	\$44,563
Record analytical results	0.00	0.00	0.25	0.00	0.25	\$14.71	\$0.00	\$0.00	8	2	\$118
Record the waste quantity represented by the sampling and analysis results	0.00	0.00	0.25	0.00	0.25	\$14.71	\$0.00	\$0.00	8	2	\$118
Calculate constituent-specific mass loadings	0.00	0.00	1.00	0.00	1.00	\$58.82	\$0.00	\$0.00	8	8	\$471
Keep a running total of the K121 constituent mass loadings over the course of the calendar year	0.00	0.00	3.00	0.00	3.00	\$176.46	\$0.00	\$0.00	8	24	\$1,412
Determine whether the annual mass loadings are below the K121 listing levels	0.00	0.00	0.10	0.00	0.10	\$5.88	\$0.00	\$0.00	8	1	\$47
Keep supporting documentation on site	0.00	0.00	0.00	0.10	0.10	\$3.08	\$0.00	\$0.00	8	1	\$25
If annual testing requirements are suspended, use knowledge of the waste to support subsequent annual determination	0.00	0.25	4.00	0.00	4.25	\$257.75	\$0.00	\$0.00	0	0	\$0
If annual testing requirements are suspended, keep records of the process knowledge information used to support a nonhazardous determination	0.00	0.00	0.00	0.10	0.10	\$3.08	\$0.00	\$0.00	0	0	\$0
If the manufacturing or waste treatment processes generating the wastes are significantly altered, retain a description of the process change	0.00	0.25	1.00	0.10	1.35	\$84.36	\$0.00	\$0.00	0	0	\$0
Sub total	0.00	varies	varies	varies	varies	varies	\$0.00	varies	varies	128	\$51,001
RECORDKEEPING DEMONSTRATIONS FOR USE OF APPROPRIATE LANDFILL											
Maintain documentation demonstrating that each shipment of waste was received by a landfill cell subject to the landfill design standards set out in the listing description	0.00	0.00	0.00	0.10	0.10	\$3.08	\$0.00	\$0.00	13	1	\$40
TOTAL	varies	varies	varies	varies	varies	varies	varies	varies	varies	462	\$76,626

OSM Information only

Annual Respondent Hour and Cost Burden under Existing Information Collection Requirements

In addition to the new information collection requirements from the proposed listing, EPA also estimated the hour and cost burden that generators of K181 listed waste and subsequent hazardous waste handlers would incur in complying with existing RCRA information collection requirements. These costs are presented in Exhibit 2, broken out by the existing EPA ICRs affected by the proposed rule.

In developing Exhibit 2, EPA reviewed each of the affected ICRs to identify the existing information collection activities that would be undertaken by generators and handlers of K181 listed waste, calculated the associated hour and cost burden, and presented the totals in the exhibit. Following are the affected ICRs, along with a description of relevant capital and O&M costs:⁹

- Part A RCRA Hazardous Waste Permit Application and Modification ICR (EPA ICR Number 262): there are no capital costs; O&M costs are associated with submitting Part A Application and reports;
- Manifest ICR (EPA ICR Number 801): there are no capital costs; O&M costs are associated with sending and returning copies of the manifest forms;
- Generator Standards ICR (EPA ICR Number 820): there are no capital costs; O&M costs are associated with submitting contingency plan to relevant emergency centers;
- Biennial Report ICR (EPA ICR Number 976): there are no capital costs; O&M costs are associated with submitting report to State or EPA Regional Office and maintaining copies of Site Identification, Waste Generation and Management (GM), and Waste Received from Off-Site (WR) Forms;
- Land Disposal Restrictions ICR (EPA ICR Number 1442): there are no capital costs; O&M costs are associated with waste analyses and transmittal and recordkeeping of one-time LDR notifications and certifications;
- General Facility Standards ICR (EPA ICR Number 1571): capital costs are associated with the purchase of file cabinets to retain specified documentation; O&M costs are associated with submitting monitoring reports and performing waste analyses;

⁹ Of the eight affected ICRs, four are associated with information collection activities that would be undertaken by one facility expected to seek a RCRA permit to operate an on-site incinerator.

- Specific Units ICR (EPA ICR Number 1572): there are no capital costs; O&M costs are associated with submitting exemption demonstration to EPA Region; and
- Part B Permit Application, Permit Modifications, and Special Permits ICR (EPA ICR Number 1573): there are no capital costs; O&M costs are associated with preparing and submitting Part B Permit Application.

6(e) Bottom Line Hour and Cost Burden

Respondent Tally

EPA presents the total annual respondent burden and cost for the new information collection requirements associated with the proposed rule in Exhibit 1. In Exhibit 2, EPA tallies respondents' burden under the rule and existing RCRA information collection requirements, in order to derive *aggregate* burden.

Exhibit 2 shows that the burden under the proposed rule is estimated to be 462 hours and \$76,626 annually. EPA estimates that the burden under existing program requirements would be 1,677 hours and \$633,098 per year. Thus, the *aggregate* burden under the proposed rule is estimated to be 2,139 hours and \$709,724 per year. The three-year bottom-line *aggregate* burden is estimated to be 6,417 hours and \$2.13 million.

Agency Tally

There are no Agency activities associated with the new information collection requirements. Thus, there is no Agency hour or cost burden associated with this rule.

6(f) Reasons for Change In Burden

In establishing the K181 listing, EPA added some new information collection requirements to ensure that the wastes are managed and disposed of in a manner that is protective of human health and the environment. The listing also will subject the newly listed organic dyes and/or pigments production nonwastewaters to the existing RCRA information collection requirements and, as such, reflect an adjustment in the respondent universe for these requirements in the eight affected EPA ICRs.

EXHIBIT 2
ESTIMATED ANNUAL RESPONDENT HOUR AND COST BURDEN SUMMARY ^a
(INCLUDING SAVINGS IN PAPERWORK BURDEN IN EXISTING ICRS)

ICR Name	ICR Number	Hours/Year	Labor Cost/Year	Capital Cost/Year	O&M Cost/Year	Total Cost/Year
New Paperwork Requirements						
Hazardous Waste Listing for Organic Dyes and/or Pigments Production Wastes	2120	462	\$33,066	\$0	\$43,560	\$76,626
Existing Paperwork Requirements						
Part A RCRA Hazardous Waste Permit Application and Modification	262	8	\$527	\$0	\$3	\$529
Manifest	801	33	\$970	\$0	\$10	\$980
Generator Standards	820	29	\$1,411	\$0	\$8	\$1,419
Biennial Report	976	4	\$215	\$0	\$2	\$216
Land Disposal Restrictions	1442	4	\$182	\$0	\$24,415	\$24,597
General Facility Standards	1571	181	\$8,634	\$60	\$249	\$8,942
Specific Units	1572	214	\$11,598	\$0	\$3	\$11,601
Part B Permit Application, Permit Modifications, and Special Permits	1573	1,205	\$72,579	\$0	\$512,234	\$584,814
Subtotal	N/A	1,677	\$96,116	\$60	\$536,923	\$633,098
TOTAL	N/A	2,139	\$129,182	\$60	\$580,483	\$709,724

^a Exhibit contains rounding error.

6(g) Public Burden Statement

There is no public reporting burden from the new information collection requirements in the proposed rule. The hourly recordkeeping burden from the new requirements ranges between 6.5 and 30.35 hours per respondent per year. This burden includes time for reading the regulations, determining whether organic dyes and/or pigments production nonwastewaters exceed regulatory listing levels, and keeping documentation on site, as specified.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID No. RCRA-2003-0001, which is available for public viewing at the RCRA Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Office for EPA. Please include the EPA Docket ID No. (RCRA-2003-0004).